

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.33802 of 2015

P.Ganesan

...Petitioner

v.

1 The District Revenue Officer
Namakkal District, Namakkal

2 The Tahsildar
Rasipuram Taluk
Rasipuram
Namakkal District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to consider the representation of the petitioner dated 30.9.2015 within a stipulated period of time.

For Petitioner : Mr.S.T.Kuil Mozhi

For Respondents : Mr.V.Subbiah,
Spl. Govt. Pleader

सत्यमेव जयते
O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner while working as Village Administrative Officer at Muthukalipatti (Group) Village Vettavalam Police Station, Rasipuram Taluk was trapped and arrested on 12.08.2014 for having demanded and accepted illegal ratification of

Rs.2,500/- from one Ravishankar of Andikkadu Village at Rasipuram Taluk for recommending to get legal heir certificate for his grandfather viz., Kattiyanna Gounder.

3. The learned counsel for the petitioner would submit that though the petitioner was placed under suspension as early as on 12.08.2014, no further progress has taken place with regard to criminal pendency and departmental action. In this regard, the petitioner submitted representations dated 27.04.2015 and 30.09.2015 to the respondents praying for revoking the order of suspension. Since no orders have been passed, he came forward to file this writ petition.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents, would submit that admittedly, the petitioner was trapped and arrested in a corruption case and the period of incarceration exceeded the period of 48 hours and since it is a deemed suspension, the petitioner, as a matter of right, cannot plead for reviewing the order of suspension, unless and until it is reviewed by the competent authority and prays for dismissal of the writ petition.

5. This court carefully considered the rival submissions made by the learned counsel on either side and also perused the materials placed on record.

6. It is relevant to extract paragraph No.14 of the Hon'ble Supreme Court judgment reported in 2015(3) CTC 119 (Ajay Kumar Choudhary Vs. Union of India and others), which reads as follows:-

"14. We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to

prepare his defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."

7. This Court, taking into consideration the limited scope of prayer sought for by the petitioner and without going into the merits of the case, directs the respondents to consider and dispose of the petitioner's representation dated 30.09.2015 on merits and in accordance with law, in the light of the judgment rendered by the Hon'ble Supreme Court reported in 2015(3) CTC 119 (cited supra) and pass orders, on merits and in accordance with law, within a period of eight weeks thereafter and communicate the decision taken, to the petitioner.

This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The District Revenue Officer
Namakkal District,
Namakkal

WEB COPY

2 The Tahsildar
 Rasipuram Taluk
 Rasipuram
 Namakkal District

1 CC to Mr.S.T.Kuil Mozhi, Advocate SR.No. 57938

1 CC to the Government Pleader, SR.No. 58108

W.P.No.33802 of 2015

ksj (CO)
PSI (06.11.2015)



WEB COPY